

REMARKS

Reconsideration of the rejections set forth in the Office Action mailed on April 10, 2007, is respectfully requested. Claim 5 has been canceled without prejudice. Claim 1 has been amended to correct an antecedent basis error. No new matter has been added with this amendment. Claims 1, 6-14, 17-23, 25, and 27 remain pending.

Claim Objections

Claim 1 was objected to for the following informality: “the first loci” and “the second loci” in the claim should be “the first locus” and “the second locus.” Applicants have amended claim 1 as requested.

35 U.S.C. § 112

Claims 5 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. In particular, the Examiner has alleged that the limitation “different blocks” does not have proper antecedent basis. Without conceding the propriety of the rejection, claim 5 has been canceled.

Art Rejections

Claims 1, 5-9, 17-20, 22, 23, 25, and 27 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Nerenberg et al. (USP 6,468,742) in view of Lannuzzi et al. (Am. J. Hum. Genet., 48, 227-231, 1991).

Applicants respectfully assert that Nerenberg (USP 6,468,742) does not qualify as prior art under 35 U.S.C. § 103(c). The subject matter and the claimed invention were, at the time the claimed invention was made, both owned by Nanogen, Inc. or subject to an obligation of assignment to Nanogen, Inc. The current application claims priority to a first provisional application filed on July 26, 2002 (US 313 Prov). Nerenberg was first published as US 2001/0014449 A1 on August 16, 2001, which is not more than a year before the priority date of the current application. Therefore, Nerenberg (USP 6,468,742), which qualifies as prior art under 35 U.S.C. § 102(e), cannot be used to preclude patentability under 35 U.S.C. § 103.

Claims 6-9, 17-20, 22-23, 25, and 27 depend from claim 1 and are patentably distinct for the same reasons as applicable to claim 1. Therefore, Applicants respectfully request withdrawal of the rejections and reconsideration of the claims as amended.

Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicant's undersigned representative at (949) 760-9600. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-2862.

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Respectfully submitted,
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